

REMARKS/ARGUMENTS

These Remarks are responsive to the Office Action mailed May 3, 2004 (the "Office Action"). The Applicants respectfully request reconsideration of the claim rejections for at least the reasons set forth below.

It is the Applicants' understanding that Examiner Shih is no longer with Art Unit 3600, and that the present case is now being handled by Examiner Shih's supervisor, Examiner Vincent Millin. Applicants have contacted the PTO on numerous occasions in attempts to confirm this belief, but have been unable to do so. If the Applicants' belief that Examiner Millin is assigned to this case is incorrect, notification of the identity of the new examiner for this case is respectfully requested.

STATUS OF THE CLAIMS

Claims 1-38 are pending in the application. By this amendment, claim 1 is amended, and claims 39-76 are added.

COMMENTS REGARDING AMENDMENTS

Claim 1 has been amended as suggested by the Examiner to address the Examiner's 35 U.S.C. § 101 rejection of claims 1-19 for allegedly failing to recite statutory subject matter. This amendment is intended to address formal issues and does not effect the scope or meaning of the claims.

Claims 39-76 have been added to mirror claims 1-38, with the only change being that the term "level of currency" has been replaced with the term "level of delinquency."

REJECTIONS UNDER 35 U.S.C. § 101

The Examiner rejected claims 1-19 for allegedly failing to recite statutory subject matter. As noted above, claim 1 has been amended in accordance with the Examiner's suggestion to address this rejection, and reconsideration and withdrawal of the rejection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 102(e)

The Examiner rejected claims 1-38 under 35 U.S.C. § 102(e) as allegedly being anticipated by Lewis (U.S. Pat. No. 6,513,019). As explained below, the Applicants respectfully traverse and request reconsideration of the rejection.

Anticipation under 35 U.S.C. § 102(e) occurs when “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); *see also* M.P.E.P. § 2131. Applicants respectfully submit that Lewis fails to anticipate the claims of the present invention because it fails to disclose, either expressly or inherently, the element of an “account metric including a weighting according to at least *a change in level of currency* of the account” as recited in independent claims 1 and 20.

The present invention provides a system and method for supervising account management operations. For example, in one embodiment, the invention is used to supervise customer service representatives (CSRs) that are attempting to secure payment of overdue financial accounts. Part of the invention includes generating an account metric that is based, in part, on the “level of currency” of the account. It should be appreciated that the “level of currency,” as that term is used in the present application, refers to how delinquent the account is (*e.g.*, one month overdue, two months overdue, etc.). The degree of delinquency is also known by its converse corollary, which is the “level of currency,” and is often measured in units called “buckets.” For example, an account that is two months overdue may be in the second “bucket” (assuming the level of currency is measured on a month-to-month basis). This understanding is made perfectly clear in the specification at page 4, lines 3-13, where the specification states, for example, “it is beneficial to a bank or other entity to efficiently move accounts to lower numbered buckets, *that is, to a better state of currency*” (emphasis added). Indeed, this banking term is recognized in Webster’s Third New International Dictionary, where it defines a “current account” as “an open

account with a balance not yet due” — that is, a completely current account is not in any state of delinquency because no amount is past due.

In light of this understanding of the terms of art as they are used in the application, it will be understood that claims 1 and 20 both recite a system that uses the account’s degree of currency — that is, the measure of how overdue the account is — when developing an account metric associated with the account. Specifically, claims 1 and 20 recite the element or step of generating an “account metric including a weighting according to at least a *change in level of currency* of the account.” Using this account metric, the system serves as a useful tool for measuring the performance of CSRs, as described in the Specification at page 13, line 6 to page 14, line 14 and elsewhere. For example, it is described in the Specification that a CSR that secures payment of \$5,000 from an account having a currency status of “2” (*i.e.*, Bucket 2) to thereby change the status of the account to have a currency of “1” (*i.e.*, Bucket 1) would receive 5,000 points, whereas a CSR that secures a payment of \$2,000 from an account having a currency status of “3” (*i.e.*, Bucket 3) to thereby make the account current (*i.e.*, Bucket 0) would receive 6,000 points.

It is important to note that the term “state of currency” or “level of currency,” as it appears in the claims, is a term of art that is not used in the present application to refer to the amount of money in the account or a particular “medium of exchange” — that is, U.S. Dollars, English Pounds, etc. — of the money in the account.

In formulating the most recent rejection of claims 1-38, the Examiner completely disregards the manner in which the term “level of currency” is used in the specification and claims. Instead, the Examiner argues that the term “currency” should be given its “broadest interpretation,” and appears to interpret “currency” in the sense of “a medium for exchange” (dollars, pesos, *etc.*). In doing so, the Examiner rejects the claims based on the Lewis reference, which *only* uses the term “currency” in the sense of “a medium for exchange.” Indeed, the portion of Lewis cited for the disclosure of “currency,” at column 13, lines 9-23, specifically refers to “foreign currencies,” and says

nothing about degrees of delinquency or the “level of currency” as that term is used in the present application.

It is axiomatic that “[d]uring patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification.” M.P.E.P. § 2173.05(a), citing *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997), and *In re Prater*, 415 F.2d 1393 (CCPA 1969). In the present case, however, the Examiner has set aside this rule and simply adopted the “broadest interpretation” of “currency.” Office Action p. 4, ll. 7-10 (“Assuming arguendo that the term ‘currency’ is given its broadest interpretation...”). This has resulted in an interpretation of “level of currency” that is neither “reasonable,” nor “consistent with the specification.” The reasons that the Examiner’s interpretation of “currency” is not consistent with the specification are explained in detail above. The lack of reasonableness and inconsistency of the Examiner’s interpretation is further demonstrated by the fact that the Examiner’s interpretation of “currency” in the sense of a “medium for exchange” would render various dependent claims utterly meaningless. For example, claims 3 and 22 both recite “wherein the change in level of currency of the account comprises monthly buckets designating a number of months behind current for the account.” Using the Examiner’s new “broadest interpretation” test, these two claims would require a “medium of exchange” to comprise the recited monthly buckets designating account delinquency. No sense can be made of such an interpretation, and therefore it fails to be a “reasonable interpretation consistent with the specification.”

In view of the clearly unreasonable and inconsistent interpretation that the Examiner has attributed to the term “level of currency,” and the failure of the cited art to disclose each and every limitation of the claims, the Applicants respectfully traverse the Examiner’s rejection of claims 1 and 20 and the claims depending therefrom, and request reconsideration thereof.

CONCLUSION

The Applicants respectfully submit that the application is in condition for allowance, and reconsideration and notice of allowance are respectfully requested. If the Examiner believes that prosecution might be advanced by discussing the application with Applicants' counsel, in person or over the telephone, Applicants' counsel would welcome the opportunity to do so.

A Request for Continued Examination and the appropriate filing fees are submitted herewith. However, in the event the provided payment is insufficient or in excess, the Commissioner is hereby authorized to charge or credit the undersigned's Deposit Account No. 50-0206 to correct any payment error.

Respectfully submitted,

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